

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DWON MONTEEK MAYS,

Petitioner,

v.

Civil No. 2:06-CV-14043

HONORABLE DENISE PAGE HOOD

UNITED STATES DISTRICT JUDGE

JAN E. TROMBLEY,

Respondent.

_____ /

ORDER RE: CERTIFICATE OF APPEALABILITY

On October 31, 2006, the Court issued a Judgment and Memorandum Opinion and Order denying and dismissing Petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254. On November 30, 2006, Petitioner filed a Notice of Appeal, along with a Motion for Certificate of Appealability and an Application to Proceed *In Forma Pauperis* on Appeal.

Before Petitioner may appeal the Court's dispositive decision denying his petition, a certificate of appealability must issue. 28 U.S.C. § 2253(c)(1)(B); Fed. R. App. P. 22(b). The Court must either issue a certificate of appealability indicating which issues satisfy the required showing or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3)(B); Fed. R. App. P. 22(b); *In re Certificates of Appealability*, 106 F. 3d 1306, 1307 (6th Cir. 1997). A certificate of appealability may be issued "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The substantial showing threshold is satisfied when a petitioner demonstrates "that reasonable jurists would find the

district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). When a prisoner's petition is denied on procedural grounds, a certificate of appealability "should issue . . . if the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Id.*

After reviewing the Court's Order and Petitioner's Notice of Appeal, Motion for Certificate of Appealability and Motion for Leave to Proceed *In Forma Pauperis*, the Court finds that Petitioner has not shown by his underlying habeas corpus petition that the Court's findings and conclusions of law are debatable among jurists and that the issues raised in the petition deserve further proceedings.

Accordingly,

IT IS ORDERED that a Certificate of Appealability NOT issue in this case.

IT IS FURTHER ORDERED that the Motion for Certificate of Appealability **(Docket No. 8, filed November 30, 2006)** is DENIED.

IT IS FURTHER ORDERED that the Application to Proceed *In Forma Pauperis* on Appeal **(Docket No. 7, filed November 30, 2006)** is DENIED.

Dated: December 13, 2006

/s/ Denise Page Hood
DENISE PAGE HOOD
United States District Judge